

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

2015 JAN -7 PM 4:36

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXASBY:  DEPUTY

LOUIS ROUSSET,

PLAINTIFF,

V.

AT&T INC.; YAHOO, INC.,
RANDALL L. STEPHENSON; AND
MARISSA MAYER,
DEFENDANTS.

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CAUSE NO. A-14-CV-843-LY

ORDER

Before the court are Defendant Marissa Mayer's Motion to Set Aside Default filed December 22, 2014 (Doc. #30) and Plaintiff's Response filed January 5, 2015 (Doc. #35). Plaintiff Louis Rousset filed suit against Defendants on September 4, 2014. Rousset asserts that summons was served on Defendant Marissa Mayer on October 22, 2014, and Mayer's answer was due November 12, 2014. Rousset filed a Motion for Entry of Default against Mayer on December 4, 2014 (Doc. #19). The Clerk's Entry of Default was filed December 4, 2014 (Doc. #20).

Having reviewed the motion and response, the court is of the opinion that Mayer was not properly served and will set aside the clerk's entry of default. *See Rogers v. Hartford Life and Accident Ins. Co.*, 167 F.3d 933, 940 (5th Cir. 1999). In addition, the court finds that setting aside the clerk's entry of default will not unduly prejudice Rousset in this cause.

IT IS THEREFORE ORDERED that Defendant Marissa Mayer's Motion to Set Aside Default filed December 22, 2014 (Doc. #30) is **GRANTED**. The Clerk's Entry of Default against Defendant Marissa Mayer filed December 4, 2014 (Doc. #20) is **SET ASIDE**.

Also before the court are Plaintiff's "Motion, Request, for Pre-Trial Conference, Time Frames" filed December 9, 2014 (Doc. #23) and Plaintiff's "Motion for Timely Notification by U.S.

Federal Court” filed January 5, 2015 (Doc. #36). The court notes that no party has moved for a pretrial conference. The court further notes that all orders rendered in this cause have been properly and timely sent by regular mail to the address provided to the court by Rousset. It is Rousset’s duty to notify the clerk if there is a change of address. Rousset’s motion for additional time to respond to pleadings not yet filed is premature. Accordingly,

IT IS FURTHER ORDERED that Plaintiff’s “Motion, Request, for Pre-Trial Conference, Time Frames” filed December 9, 2014 (Doc. #23) and Plaintiff’s “Motion for Timely Notification by U.S. Federal Court” filed January 5, 2015 (Doc. #36) are **DISMISSED**.

SIGNED this 5th day of January, 2015.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE